

IC 12-17.4-4

Chapter 4. Regulation of Foster Homes

IC 12-17.4-4-1

License required for operation

Sec. 1. (a) A person may not operate a foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a foster family home without a license issued under this article.

(c) A person may not operate a foster family home if:

- (1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; and
- (2) the children are maintained in a building or place not designated by the license.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.29.

IC 12-17.4-4-1.5

Therapeutic foster homes; licenses

Sec. 1.5. (a) A person may not operate a therapeutic foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a therapeutic foster family home without a license issued under this article.

(c) The division may only issue a license for a therapeutic foster family home that meets:

- (1) all of the licensing requirements of a foster family home; and
- (2) the additional requirements described in this section.

(d) An applicant for a therapeutic foster family home license must do the following:

- (1) Be licensed as a foster parent under 470 IAC 3-1-1 et seq.
- (2) Participate in thirty (30) hours of pre-service training that includes:
 - (A) twenty (20) hours of pre-service training to be licensed as a foster parent under 470 IAC 3-1-1 et seq.; and
 - (B) ten (10) hours of additional pre-service training in therapeutic foster care.

(e) A person who is issued a license to operate a therapeutic foster family home shall, within one (1) year after meeting the training requirements of subsection (d)(2) and annually thereafter, participate in twenty (20) hours of training that includes:

- (1) ten (10) hours of training as required in order to be licensed as a foster parent under 470 IAC 3-1-1 et seq.; and
- (2) ten (10) hours of additional training in order to be licensed as a therapeutic foster parent under this chapter.

(f) An operator of a therapeutic foster family home may not provide supervision and care in a therapeutic foster family home to more than two (2) foster children at the same time, not including the

children for whom the applicant or operator is a parent, stepparent, guardian, custodian, or other relative. The division may grant an exception to this subsection whenever the placement of siblings in the same therapeutic foster family home is desirable or in the best interests of the foster children residing in the home.

As added by P.L.211-1999, SEC.4.

IC 12-17.4-4-1.7

Special needs foster homes; licenses

Sec. 1.7. (a) A person may not operate a special needs foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a special needs foster family home without a license issued under this article.

(c) The division may only issue a license for a special needs foster family home that meets:

- (1) all of the licensing requirements of a foster family home; and
- (2) the additional requirements described in this section.

(d) An applicant for a special needs foster family home license must be licensed as a foster parent under 470 IAC 3-1-1 et seq. that includes participating in twenty (20) hours of pre-service training.

(e) A person who is issued a license to operate a special needs foster family home shall, within one (1) year after meeting the training requirements of subsection (d) and annually thereafter, participate in twenty (20) hours of training that includes:

- (1) ten (10) hours of training as required in order to be licensed as a foster parent under 470 IAC 3-1-1 et seq.; and
- (2) ten (10) hours of additional training that includes specialized training to meet the child's specific needs.

(f) An operator of a special needs foster family home may not provide supervision and care as a special needs foster family home if more than:

- (1) eight (8) individuals, each of whom either:
 - (A) is less than eighteen (18) years of age; or
 - (B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or
- (2) four (4) individuals less than six (6) years of age;

including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision in the home at the same time. Not more than four (4) of the eight (8) individuals described in subdivision (1) may be less than six (6) years of age. The division may grant an exception to this section whenever the division determines that the placement of siblings in the same special needs foster home is desirable.

(g) The division shall consider the specific needs of each special needs foster child whenever the division determines the appropriate number of children to place in the special needs foster home under subsection (f). The division may require a special needs foster family home to provide care and supervision to less than the maximum

number of children allowed under subsection (f) upon consideration of the specific needs of a special needs foster child.

As added by P.L.211-1999, SEC.5.

IC 12-17.4-4-2

Consultation with fire prevention and building safety commission

Sec. 2. The fire prevention and building safety commission shall provide consultation regarding the licensure of foster family homes to the division upon request.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.30.

IC 12-17.4-4-3

Applying for licenses

Sec. 3. (a) An applicant must apply for a foster family home license on forms provided by the division.

(b) An applicant must submit the required information as part of the application.

(c) An applicant must submit with the application a statement attesting the following:

(1) That the applicant has not been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) That the applicant has not been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) An applicant shall submit the necessary information, forms, or consents for the division to conduct a criminal history check.

(e) An applicant shall do the following:

(1) Conduct a criminal history check of:

(A) the applicant's employees and volunteers at the home, if any; and

(B) all household members who are at least eighteen (18) years of age.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.31.

IC 12-17.4-4-4

Grounds for denial of license applications

Sec. 4. The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the division of child abuse or neglect (as defined in IC 31-9-2-14) by the applicant.

(2) A criminal conviction of:

(A) a felony; or

(B) a misdemeanor related to the health and safety of a child.

(3) A determination by the division that the applicant made

false statements in the applicant's application for licensure.

(4) A determination by the division that the applicant made false statements in the records required by the division.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.32; P.L.2-1995, SEC.57; P.L.1-1997, SEC.76.

IC 12-17.4-4-5

Incomplete applications

Sec. 5. The division may not act on an incomplete application. The division shall return an incomplete application with a notation concerning omissions. The return of an incomplete application is without prejudice.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-4-6

Care and supervision limits

Sec. 6. (a) An applicant may not provide supervision and care as a foster family home if more than:

(1) eight (8) individuals, each of whom either:

(A) is less than eighteen (18) years of age; or

(B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or

(2) four (4) individuals less than six (6) years of age;

including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision at the facility at the same time.

(b) Not more than four (4) of the eight (8) individuals in subdivision (1) may be less than six (6) years of age.

(c) The division may grant an exception to this section whenever the division determines that the placement of siblings in the same foster family home is desirable.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.33.

IC 12-17.4-4-7

Licensing of applicants providing care and supervision to relatives

Sec. 7. (a) An applicant may apply for a foster family home license even if the applicant will be providing care and supervision under an order of a juvenile court to a niece, nephew, sibling, or grandchild.

(b) If an applicant described in subsection (a) otherwise qualifies for a foster family home license, the division may issue a foster family home license to the applicant.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.34.

IC 12-17.4-4-8

Investigation of applicants

Sec. 8. The division shall investigate a person seeking licensure to determine whether the person is in compliance with this article

and the rules adopted under this article. The investigation shall be conducted at a reasonable time and in a reasonable manner, in announced or unannounced visits. Activities may include onsite inspections, record reading, observation, and interviewing. The division may require that evidence of compliance with the rules be presented in a form and manner specified in the rules.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-4-9

Issuance of licenses

Sec. 9. The division shall issue a license to a person who meets all of the license requirements when an investigation shows the applicant to be in compliance under this article.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-4-10

Eligibility for waivers and variances

Sec. 10. A foster family home may be eligible to receive a waiver or variance from the requirements of this chapter by complying with IC 12-17.4-2-8.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.35; P.L.2-1995, SEC.58.

IC 12-17.4-4-11

Denial of licenses

Sec. 11. (a) The division shall deny a license when an applicant fails to meet the requirements for a license. The division shall deny a license to an applicant who has been convicted of any of the following felonies:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery (IC 35-42-2-1).
- (7) Aggravated battery (IC 35-42-2-1.5).
- (8) Kidnapping (IC 35-42-3-2).
- (9) Criminal confinement (IC 35-42-3-3).
- (10) A felony sex offense under IC 35-42-4.
- (11) Carjacking (IC 35-42-5-2).
- (12) Arson (IC 35-43-1-1).
- (13) Incest (IC 35-46-1-3).
- (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
- (15) Child selling (IC 35-46-1-4(d)).
- (16) A felony involving a weapon under IC 35-47 or IC 35-47.5.
- (17) A felony relating to controlled substances under IC 35-48-4.
- (18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

(19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

The division may deny a license to an applicant who has been convicted of a felony that is not listed in this subsection.

(b) The division shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after receiving the written notice under subsection (b).

(d) An administrative hearing shall be held not more than sixty (60) days after receiving a written request.

(e) An administrative hearing shall be held in accordance with IC 4-21.5-3.

(f) The division shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

As added by P.L.1-1993, SEC.142. Amended by P.L.121-1997, SEC.1; P.L.1-2002, SEC.58; P.L.123-2002, SEC.23.

IC 12-17.4-4-12

Delegation of investigations

Sec. 12. (a) The division may delegate the investigation of foster family homes to a licensed child placing agency. The child placing agency is responsible for completing a foster family home licensing study that shows substantial compliance with foster family home rules and is the basis of a recommendation for licensure to the division.

(b) The division shall:

(1) issue the license; or

(2) notify the child placing agency if a license is not issued, giving the reasons for the denial.

(c) After licensure the child placing agency shall supervise and monitor the foster family home in relation to the rules for licensure and shall recommend subsequent licensing and enforcement actions.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.36; P.L.2-1995, SEC.59.

IC 12-17.4-4-13

Investigation of unlicensed premises

Sec. 13. The division shall investigate any premises that the division has reason to believe are being used for child care without a license in circumstances where a license is required.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-4-14

Expiration, transferability, inspection, and renewal of licenses

Sec. 14. (a) A license for a foster family home expires two (2) years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily

returned.

(b) A license issued under this chapter:

- (1) is not transferable;
- (2) applies only to the licensee and the location stated in the application; and
- (3) remains the property of the division.

(c) A foster family home shall have the foster family home's license available for inspection.

(d) If a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.37.

IC 12-17.4-4-15

Provisional licenses

Sec. 15. (a) The division may grant a provisional license to an applicant who is not able to demonstrate compliance with a rule because the foster family home is not in full operation.

(b) A provisional license shall be granted for not more than one (1) year and is subject to review every three (3) months.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.38.

IC 12-17.4-4-16

Probationary licenses

Sec. 16. (a) The division may grant a probationary license to a licensee who is temporarily unable to comply with a rule if:

- (1) the noncompliance does not present an immediate threat to the health and well-being of the children;
- (2) the licensee files a plan with the division to correct the areas of noncompliance within the probationary period; and
- (3) the division approves the plan.

(b) A probationary license is valid for not more than six (6) months. The division may extend a probationary license for one (1) additional period of six (6) months.

(c) An existing license is invalidated when a probationary license is issued.

(d) At the expiration of a probationary license, the division shall reinstate the original license to the end of the original term of the license, issue a new license, or revoke the license.

(e) Upon receipt of a probationary license, the licensee shall return to the division the previously issued license.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-4-17

Inspection of foster family homes; rule conformance

Sec. 17. The division may conduct an inspection of a foster family home for the sole purpose of inquiry into matters as stated in the rules, including those directly affecting the health, safety, treatment,

and general well-being of the children protected under this article.
As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.39.

IC 12-17.4-4-18

Records of monitoring activities and inspections

Sec. 18. The division shall keep written records of the division's monitoring activities and onsite inspections.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-4-19

Cooperation by licensees

Sec. 19. The licensee shall cooperate with the division in carrying out the activities required by sections 17 through 18 of this chapter, including permitting the division to conduct announced or unannounced inspections.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-4-20

Records regarding children

Sec. 20. (a) A licensee shall keep records regarding each child in the control and care of the licensee as the division requires and shall report to the division upon request the facts the division requires with reference to children.

(b) The division shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

- (1) A state agency involved in the licensing of the foster family home.
- (2) A legally mandated child protection agency.
- (3) A law enforcement agency.
- (4) An agency having the legal responsibility to care for a child placed at the foster family home.
- (5) The parent, guardian, or custodian of the child at the foster family home.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.40.

IC 12-17.4-4-21

Notice of enforcement actions; informal meetings

Sec. 21. The division shall give a licensee thirty (30) days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the division. The licensee must request the meeting not more than ten (10) working days after receipt of the certified notice.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-4-22

Administrative hearings

Sec. 22. (a) An administrative hearing concerning the decision of the division to impose a sanction under this chapter shall be provided upon a written request by the foster family home. The request must be made not more than thirty (30) calendar days after receiving notice under section 21 of this chapter. The written request must be made separately from an informal meeting request made under section 21 of this chapter.

(b) An administrative hearing shall be held not more than sixty (60) days after receiving a written request.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.41.

IC 12-17.4-4-23**Procedure for administrative hearings**

Sec. 23. A hearing requested under section 22 of this chapter shall be held in accordance with IC 4-21.5-3.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-4-24**Issuance of decisions**

Sec. 24. The division shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-4-25**Cessation of operation upon suspension of license**

Sec. 25. If a license is suspended, a licensed foster family home shall cease operation.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.42.

IC 12-17.4-4-26**Reinstatement of suspended licenses**

Sec. 26. To reinstate a suspended license, the following must occur:

(1) The licensee must, not more than thirty (30) days after receiving the notice of the suspension, submit a plan of corrective action to the division for approval.

(2) The plan must outline the steps and timetable for immediate correction of the violations that caused the division to suspend the license.

(3) The division must approve the plan.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-4-27**Actions of division following suspensions of licenses**

Sec. 27. Following the suspension, the division shall do one (1) of the following:

(1) Reinstate the license for the term of the original license.

- (2) Revoke the license.
- (3) Issue a new license.
- (4) Deny a reapplication.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-4-28

Cessation of operation following revocation of license

Sec. 28. A foster family home shall cease operation when the license of the foster family home is revoked.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.43.

IC 12-17.4-4-29

Notification of suspension or revocation of licenses

Sec. 29. (a) After a license is revoked or suspended, the division shall notify in writing each person responsible for each child in care, to ensure that the children are removed.

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and must state that the license of the foster family home has been revoked or suspended.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.44.

IC 12-17.4-4-30

Judicial review

Sec. 30. A final decision of the division made after a hearing is subject to judicial review under IC 4-21.5-5.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-4-31

Grounds for revocation of licenses

Sec. 31. The following constitute sufficient grounds for revocation of a license:

- (1) A determination by the division of child abuse or neglect (as defined in IC 31-9-2-14) by the licensee.
- (2) A criminal conviction of any of the following:
 - (A) A felony.
 - (B) A misdemeanor related to the health or safety of a child.
- (3) A determination by the division that the licensee made false statements in the licensee's application for licensure.
- (4) A determination by the division that the licensee made false statements in the records required by the division.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.45; P.L.1-1997, SEC.77.

IC 12-17.4-4-32

Disciplinary sanctions

Sec. 32. (a) A licensee shall operate a foster family home in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the division finds

that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 21 through 24 of this chapter, the division may impose the following sanctions when the division finds that a licensee has committed a violation under subsection (a):

- (1) Suspend the license for not more than six (6) months.
- (2) Revoke the license.

However, the division shall permanently revoke the license of a licensee who has been convicted of any of the felonies described in section 11(a)(1) through 11(a)(19) of this chapter. The division may permanently revoke the license of a person who has been convicted of a felony that is not described in section 11(a)(1) through 11(a)(19) of this chapter.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.46; P.L.121-1997, SEC.2.

IC 12-17.4-4-33

Investigation of unlicensed home reports; enforcement

Sec. 33. (a) The division shall investigate a report of an unlicensed foster family home and report the division's findings to the attorney general and to the county department of public welfare attorney and the prosecuting attorney in the county where the foster family home is located.

(b) The attorney general or the county department of public welfare attorney may do the following:

- (1) Seek the issuance of a search warrant to assist in the investigation.
- (2) File an action for injunctive relief.
- (3) Seek in a civil action a civil penalty not to exceed one hundred dollars (\$100) a day for each day a foster family home is operating without a license required under this article.

(c) The civil penalties collected under this section shall be deposited in the child care fund.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.47.

IC 12-17.4-4-33.5

Notification of sexual contact or sex crime

Sec. 33.5. (a) A licensee must immediately contact the division if:

- (1) a foster child less than sixteen (16) years of age, while living in a foster home, engages in or is the victim of sexual contact (as defined in IC 25-1-9-3.5);
- (2) a foster child, while living in a foster home, is:
 - (A) charged with or adjudicated as having committed an act that would be a crime under IC 35-42-4 if committed by an adult;
 - (B) charged with or convicted of an offense under IC 35-42-4; or
 - (C) the victim of an offense under IC 35-42-4; or

(3) the licensee learns that a foster child has, before placement with the licensee, engaged in or been the victim of an act described in subdivision (1) or (2).

(b) The information provided to the division under subsection (a) must include:

- (1) the name of the child;
- (2) the date of the occurrence of the act if it can be determined;
- (3) a description of the act;
- (4) the name of the responding law enforcement agency if a law enforcement agency is contacted; and
- (5) any other information the licensee determines is relevant.

(c) Notwithstanding any other law, the division shall provide information described in subsection (b)(1) through (b)(4), whether received from a licensee or another reliable source, to:

- (1) a prospective licensee before the placement of the foster child with that licensee; and
- (2) each licensee where the foster child has previously been placed.

(d) The notification requirements of subsection (c) apply to a foster child who has:

- (1) engaged in sexual contact (as defined in IC 25-1-9-3.5) if the foster child is less than sixteen (16) years of age;
- (2) been charged with or adjudicated as having committed an act that would be a crime under IC 35-42-4 if committed by an adult; or
- (3) been charged with or convicted of an offense under IC 35-42-4.

As added by P.L.136-2002, SEC.1.

IC 12-17.4-4-34

Violations of chapter

Sec. 34. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

As added by P.L.1-1993, SEC.142.